

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS  
CENTRAL DIVISION**

**Chapter 13  
Case No. 09-44760  
Adversary Proceeding No. 09-04190**

**In re:**

**Carmen Bailey**

**Debtor**

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**Carmen Bailey  
Plaintiff**

**vs.**

**Wells Fargo Bank, NA  
Defendant.**

**DEFENDANT, WELLS FARGO BANK, NA'S MOTION TO DISMISS  
PLAINTIFF'S COMPLAINT**

Now comes the Defendant, Wells Fargo Bank, NA (hereinafter "Wells") and moves that this Honorable Court dismiss the Complaint pursuant to Mass R. Civ. P. Rule 12(b)(6) as Plaintiff fails to state a claim against Wells for which relief can be granted. As further support for this motion, Wells refers to the attached Memorandum in Support of its Motion to Dismiss Complaint, filed herewith.

Wherefore, Wells requests that the Complaint be dismissed as against Wells and grant Wells such further relief as is appropriate and just.

Respectfully submitted,  
**WELLS FARGO BANK, NA**  
By its attorney,

/s/ Christine A. Murphy  
Christine A. Murphy, Esq.  
BBO # 643334  
HARMON LAW OFFICES, P.C.  
P.O. Box 610389  
Newton Highlands, MA 02461-0389  
(617) 558-0500

DATED February 9, 2010

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DISTRICT OF MASSACHUSETTS – CENTRAL DIVISION

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Carmen Bailey

Ch. 13 Case No. 09-44760  
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**CERTIFICATE OF SERVICE**

I, Christine A. Murphy, state that on February 9, 2010 I electronically filed the foregoing Defendants' Wells Fargo Bank's Motion to Dismiss Plaintiff's Complaint and Certificate of Service with the United States District Court for the District of Massachusetts using the CM/ECF System. I served the foregoing documents on the following CM/ECF participants:

Michael J. Tremblay  
277 Main Street  
Marlborough, MA 01752

/s/ Christine A. Murphy, Esquire  
Christine A. Murphy, Esquire  
BBO#643334

February 9, 2010